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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,035	08/15/2006	Jan Skansen	1505-1041-1	6755
466 7590 12/09/2009 YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314			EXAMINER PATEL, SHEFALI DILIP	
			ART UNIT 3767	PAPER NUMBER
			NOTIFICATION DATE 12/09/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/583,035

Applicant(s)

SKANSEN ET AL.

Examiner

SHEFALI D. PATEL

Art Unit

3767

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kevin C. Simmons/
Supervisory Patent Examiner, Art Unit 3767

/Shefali D Patel/
Examiner, Art Unit 3767

Continuation of 11. does NOT place the application in condition for allowance because:

With respect to claims 19-22, 24-29, 31, 33, and 38-40, Examiner has considered Applicant's arguments/remarks; however, Applicant's arguments/remarks are not persuasive. Therefore, the rejection, as cited in the final rejection of August 10, 2009, is maintained.

In regards to independent claim 19, rejected under 35 USC 103(a) as being unpatentable over Porter in view of Lang, Applicant argues that Lang does not teach a pulsed flow sequence (Reply, pages 6-7). Lang teaches that using a suitable programming control it is possible for vascular access points to be maintained open by pulsating infusion (column 2, lines 30-32). Lang further teaches that valves are opened and closed to control the flow of the fluids in the pulsating infusion (column 7, lines 21-26). Applicant states that the program of Lang controls the particular time to open the valves (Reply, page 7); however, such is still pulsatile flow as the flow of fluids is not occurring all the time or in a continuous flow. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the external pump device, of the infusion system of Porter, with a controller that directs a substance to pulsatile flow, as taught by Lang, as a suitable programming controller makes it possible for vascular access points to be maintained open by pulsating fluid infusion (column 2, lines 30-32).

In further regards to independent claim 19, Applicant argues that both Porter and Land fail to teach or infer that a volume of the flushing liquid is equal to or slightly larger than the volume defined in said outer catheter lumen. However, Examiner never stated that either Porter or Lang teach said limitation. Examiner provided an obviousness rationale which Applicant did not argue:

Further, concerning the limitation that the volume of the flushing liquid is equal to or slightly larger than the volume defined in said outer catheter lumen, such would depend upon the volume of flushing liquid necessary and prescribed by the user for moving the active substance from the catheter to the patient's body. Alone, Porter teaches that one volume introduction of the flushing liquid [12] is less than the volume defined in the outer catheter lumen [28], as the flushing liquid only reaches the mixing zone [38] at first, and Porter is silent about the total volume of flushing liquid contained in the first supply [34] (paragraph [0061]). However, with a second volume introduction of flushing liquid, as taught by the combination of Porter and Lang, one would expect the total volume of the first volume introduction and the second volume introduction of flushing liquid to together be larger than the volume of the outer catheter lumen of Porter. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the volume of the flushing liquid to be slightly larger than the volume defined in the outer catheter lumen, in an infusion system of Porter and Lang, as such a volume will accommodate for more than one introduction of flushing liquid into the patient for delivery of more than one volume of active substance (Final rejection, page 5).